

UNITED STATES DISTRICT COURT

Northern District of California

San Francisco Division

BARNES AND NOBLE, INC., et al.,

No. C 11-02709 EMC (LB)

Plaintiffs,

v.

**INTERIM ORDER REGARDING THE
PARTIES' JOINT DISCOVERY
LETTER DATED APRIL 9, 2012**

LSI CORPORATION, et al.,

[Re: ECF No. 97]

Defendants.

Plaintiffs Barnes & Noble, Inc. and barnesandnoble.com LLC (collectively, "B&N") filed the instant action seeking a declaratory judgment of non-infringement and patent invalidity against defendants LSI Corporation and Agere Systems, Inc. (collectively, "Defendants"). Original Complaint, ECF No. 1.¹ Defendants answered B&N's First Amended Complaint and brought counterclaims against B&N for patent infringement. Answer and Counterclaims, ECF No. 62.

On April 9, 2012, the parties filed a joint letter describing their fifth (so far) discovery dispute. 4/9/2012 Joint Letter, ECF No. 97. This time, the parties dispute whether Defendants may disclose certain of B&N's confidential information to Defendants' chosen technical expert, Dr. Kevin Negus. *Id.* at 1.

Upon review of the parties' joint letter and the attached documents, the court sees fit to order

¹ Citations are to the Electronic Case File ("ECF") with pin cites to the electronic page number at the top of the document, not the pages at the bottom.

1 further action. Specifically, the court orders the following:

- 2 1. Defendants shall make a good faith attempt to assist Dr. Negus request a limited waiver of his
3 confidentiality obligations regarding the three unidentified engagements.
- 4 2. Should Dr. Negus be unable to obtain a such a waiver of his confidentiality obligations, the
5 parties shall file by May 25, 2012 a joint letter, not to exceed 2 pages, that summarizes the
6 parties' positions and sets forth each parties' proposed compromise.
- 7 3. In preparing the joint letter, the parties' lead counsel (Charlene M. Morrow for Defendants, and
8 John B. Quinn for B&N) shall meet and confer in person. Lead counsel may meet and confer via
9 email or telephone to choose a location for their in-person meet and confer.
- 10 4. In addition to the joint letter, Defendants and/or Dr. Negus shall submit for *in camera* review the
11 identities of the entities involved with the three unidentified engagements, and B&N shall submit
12 for *in camera* review a list of its competitors and/or potential competitors.

13 The Court then will review the parties' two-page joint letter and determine whether future
14 proceedings are necessary. This kind of conflict issue can be resolved easily in a way that protects
15 each party's confidentiality concerns.

16 **IT IS SO ORDERED.**

17 Dated: May 2, 2012



18 LAUREL BEELER
19 United States Magistrate Judge
20
21
22
23
24
25
26
27
28